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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,898	03/12/2004	Rick Huffman	2503343-991100	8313

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EXAMINER	
GREENE, DANIEL LAWSON	
ART UNIT	**PAPER NUMBER**
3641	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/799,898	HUFFMAN, RICK	
	Examiner	Art Unit	
	Daniel L Greene Jr.	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 June 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-78* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-78* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

EA

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-24, 34-44 and 47-51, drawn to a subcombination apparatus, classified in class 102, subclass 434.

II. Claims 25-33, drawn to a combination apparatus, classified in class 102, subclass 444.

III. Claim 45, drawn to a combination apparatus, classified in class 102, subclass 446.

IV. Claim 46, drawn to a combination apparatus, classified in class 102, subclass 447.

V. Claims 52-65, drawn to a subcombination method of preparing a cartridge, classified in class 102, subclass 464.

VI. Claims 66-78, drawn to a combination method of loading a cartridge, classified in class 102, subclass 469.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-IV and V, VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as

claimed can be used in a materially different process of using that product such as containing a liquid as a thermos bottle, a protective case for eyeglasses or as a viewing device such as a telescope.

3. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as shown by the particulars set forth in claim 25. The subcombination has separate utility such as a thermos, protective case or telescope.

4. Inventions III and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as shown by the particulars set forth in claim 45. The subcombination has separate utility such as a thermos, protective case or telescope.

5. Inventions IV and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and

(2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as shown by the particulars set forth in claim 46. The subcombination has separate utility such as a thermos, protective case or telescope.

6. Inventions II, III and IV are independent and distinct on their face, neither requiring the particulars of the other for patentability.

7. Inventions V and VI are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed as claimed as shown by the particulars set forth in claim 66. The subcombination has separate utility such as the process wherein the sleeve and primary case are discarded after a single use. Additionally Claim 56 is an evidence claim that the combination does not require the all details of the subcombination as set forth for patentability because it recites the details broadly.

8. Because these inventions are distinct from the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

9. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on

the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

A. The embodiment wherein the propellant mechanism is a detonating primer ONLY. (See for example claim 13)

B. The embodiment wherein the propellant mechanism is a pressurized propellant container ONLY.

10. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

AA. The embodiment wherein the regulator hole comprises an adjustable valve for regulating propellant pressure to launch the projectile at a determined velocity ONLY. (See for example claim 15)

BB. The embodiment wherein the regulator hole comprises a device to open or close pending need to regulate pressure passing through flash hole to regulate projectile velocity ONLY. (See for example claim 16)

11. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

AAA. The embodiment wherein the jacket of the piston sleeve comprises brass ONLY. (See for example claim 11 and the specification page 10, lines 9-11)

BBB. The embodiment wherein the jacket of the piston sleeve comprises stainless steel ONLY. (See for example claim 11 and the specification page 10, lines 9-11)

CCC. The embodiment wherein the jacket of the piston sleeve comprises copper ONLY. (See for example claim 11 and the specification page 10, lines 9-11)

12. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

AAAA. The embodiment wherein the jacket of the primary case comprises brass ONLY. (See for example claim 12 and the specification page 10, lines 9-11)

BBBB. The embodiment wherein the jacket of the primary case comprises stainless steel ONLY. (See for example claim 12 and specification page 10, lines 9-11)

CCCC. The embodiment wherein the jacket of the primary case comprises copper ONLY. (See for example claim 12 and specification page 10, lines 9-11)

13. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

AAAAA. The embodiment wherein the bullet is non-lethal ONLY. (See for example claim 18)

BBBBB. The embodiment wherein the bullet is sub-lethal ONLY. (See for example claim 18)

CCCCC. The embodiment wherein the bullet is lethal ONLY. (See for example claim 18)

14. Upon election of one of the inventions I-VI above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

AAAAAA. The embodiment wherein the firearm is dedicated ONLY. (See for example claim 1, 69, etc.)

BBBBBB. The embodiment wherein the firearm is modified ONLY. (See for example claim 1, 69, etc.)

15. Upon election of one of the inventions III above ONLY, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

IIIa. The embodiment wherein the retention protrusions protrude inward from the sleeve ONLY. (See for example claim 45)

IIIb. The embodiment wherein the retention protrusions protrude outward from the projectile ONLY. (See for example claim 45)

IIIc. The embodiment wherein the retention protrusions protrude inward from the sleeve and outward from the projectile ONLY. (See for example claim 45)

16. Upon election of one of the inventions IV above ONLY, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

IVa. The embodiment wherein the retention protrusions protrude inward from the primary case ONLY. (See for example claim 46)

IVb. The embodiment wherein the retention protrusions protrude outward from the primer cartridge ONLY. (See for example claim 46)

IVc. The embodiment wherein the retention protrusions protrude inward from the primary case and outward from the primary cartridge ONLY. (See for example claim 46)

17. Upon election of one of the inventions V or VI above, the applicant is further required to elect a single species of the following under 35 U.S.C. 121 for the purpose of examination. This additional requirement is to facilitate examination due to the broad range of method steps that can be included in the loading and coupling of the projectiles and propellant mechanisms.

ELECT ONE OF:

VVIa. repeating the projectile loading with another projectile ONLY. (See for example claims 56 and 66)

VVIb. repeating the propellant mechanism coupling with another propellant mechanism ONLY. (See for example claims 56 and 66)

VVIc. repeating both the projectile loading with another projectile AND the propellant mechanism coupling with another propellant mechanism ONLY. (See for example claims 56 and 66)

ALONG WITH ONE OF

VVId. Reuse of the piston sleeve ONLY. (See for example claims 56 and 66)

VVIe. Reuse of the primary case ONLY. (See for example claims 56 and 66)

VVIf. Or both reuse of the piston sleeve AND primary case ONLY. (See for example claims 56 and 66)

NOTE that a single species election must be closed-ended (e.g., consisting of, is only,) not be open ended (e.g., comprising), an example of a closed ended single species election is: Invention VI, species VVIa, VVId, wherein the method further consists of repeating the projectile loading with another projectile ONLY and repeating the coupling for reuse of the piston sleeve ONLY.

18. Upon election of one of the species VVIa-VVIc above, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims appear generic.)

VVIaa. The embodiment wherein the sleeve and primary case are reused, respectively with a different reusable primary case and different reusable sleeve ONLY. (See for example claims 57 and 67)

VVIbb. The embodiment wherein the same piston sleeve and primary case of the two-piece cartridge of the reuse step are reused together ONLY. (See for example claims 58 and 68)

19. ***Applicant is advised that an open-ended election will be considered non-responsive*** and that a reply to this requirement must include an identification of the species that is elected consonant with this requirement (See examples previously presented), and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

20. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

21. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

22. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR ONLY. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DIG
5/20/2005

HARVEY BEHREND
PRIMARY EXAMINER